

IC 35-50-6

Chapter 6. Release From Imprisonment and Credit Time

IC 35-50-6-1

Parole; discharge to community transition program; release to committing court for probation

Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes his fixed term of imprisonment, less the credit time he has earned with respect to that term, he shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
- (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
- (3) released to the committing court if his sentence included a period of probation.

(b) Except as provided in subsection (d), a person released on parole remains on parole from the date of his release until his fixed term expires, unless his parole is revoked or he is discharged from that term by the parole board. In any event, if his parole is not revoked, the parole board shall discharge him after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for the remainder of his fixed term. However, he shall again be released on parole when he completes that remainder, less the credit time he has earned since the revocation. The parole board may reinstate him on parole at any time after the revocation.

(d) When an offender (as defined in IC 5-2-12-4) completes the offender's fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.132; Acts 1979, P.L.120, SEC.11; Acts 1981, P.L.298, SEC.7; P.L.240-1991(ss2), SEC.100; P.L.11-1994, SEC.18; P.L.273-1999, SEC.215; P.L.90-2000, SEC.20; P.L.238-2001, SEC.22; P.L.116-2002, SEC.26.

IC 35-50-6-2

Discharge from imprisonment for a misdemeanor

Sec. 2. A person imprisoned for a misdemeanor shall be discharged when he completes his fixed term of imprisonment, less the credit time he has earned with respect to that term.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.133.

IC 35-50-6-3

Credit time classes

Sec. 3. (a) A person assigned to Class I earns one (1) day of credit

time for each day he is imprisoned for a crime or confined awaiting trial or sentencing.

(b) A person assigned to Class II earns one (1) day of credit time for every two (2) days he is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class III earns no credit time.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.134.

IC 35-50-6-3.3

Credit time for successful completion of educational degree or certificate

Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

- (1) is in credit Class I;
- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-10.1-12.1, if the person has not previously obtained a high school diploma.

(B) A high school diploma.

(C) An associate's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(D) A bachelor's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

- (1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1.

- (2) One (1) year for graduation from high school.
- (3) One (1) year for completion of an associate's degree.
- (4) Two (2) years for completion of a bachelor's degree.
- (5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction.
- (6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.
- (7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more vocational education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.

(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(h) Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:

- (1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or
- (2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:
 - (A) Rape (IC 35-42-4-1).
 - (B) Criminal deviate conduct (IC 35-42-4-2).
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Child exploitation (IC 35-42-4-4(b)).
 - (E) Vicarious sexual gratification (IC 35-42-4-5).
 - (F) Child solicitation (IC 35-42-4-6).
 - (G) Child seduction (IC 35-42-4-7).

(H) Sexual misconduct with a minor as a Class A felony, Class B felony, or Class C felony (IC 35-42-4-9).

(I) Incest (IC 35-46-1-3).

(J) Sexual battery (IC 35-42-4-8).

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) four (4) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(j) The amount of credit time earned under this section is reduced to the extent that application of the credit time would otherwise result in:

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program;

in less than forty-five (45) days after the person earns the credit time.

(k) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

As added by P.L.243-1993, SEC.2. Amended by P.L.149-1995, SEC.17; P.L.148-1995, SEC.7; P.L.183-1999, SEC.3; P.L.243-1999, SEC.3; P.L.14-2000, SEC.78; P.L.90-2000, SEC.21; P.L.164-2003, SEC.1.

IC 35-50-6-4

Credit time assignments

Sec. 4. (a) A person imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class I.

(b) A person may be reassigned to Class II or Class III if he violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which he is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, he must be granted a hearing to determine his guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive his right to the hearing.

(c) In connection with the hearing granted under subsection (b), the person is entitled to:

(1) have not less than twenty-four (24) hours advance written notice of the date, time, and place of the hearing, and of the

alleged misconduct and the rule the misconduct is alleged to have violated;

- (2) have reasonable time to prepare for the hearing;
- (3) have an impartial decisionmaker;
- (4) appear and speak in his own behalf;
- (5) call witnesses and present evidence;
- (6) confront and cross-examine each witness, unless the hearing authority finds that to do so would subject a witness to a substantial risk of harm;
- (7) have the assistance of a lay advocate (the department may require that the advocate be an employee of, or a fellow prisoner in, the same facility or program);
- (8) have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;
- (9) have immunity if his testimony or any evidence derived from his testimony is used in any criminal proceedings; and
- (10) have his record expunged of any reference to the charge if he is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing.

(d) A person may be reassigned from Class III to Class I or Class II or from Class II to Class I. A person's assignment to Class III or Class II shall be reviewed at least once every six (6) months to determine if he should be reassigned to a higher credit time class.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.135; Acts 1979, P.L.120, SEC.12; P.L.90-2000, SEC.22.

IC 35-50-6-5

Deprivation of credit time

Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time he has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a community transition program.
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine his guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with

the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive his right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.136; Acts 1979, P.L.120, SEC.13; P.L.146-1995, SEC.6; P.L.90-2000, SEC.23.

IC 35-50-6-5.5

Credit time appeals

Sec. 5.5. A person who has been reassigned to a lower credit time class or has been deprived of earned credit time may appeal the decision to the commissioner of the department of correction or the sheriff.

As added by Acts 1979, P.L.120, SEC.14. Amended by P.L.204-1986, SEC.3.

IC 35-50-6-6

Degree of security, parole, or probation; imprisonment upon revocation of parole; days spent on parole outside institution

Sec. 6. (a) A person imprisoned for a crime earns credit time irrespective of the degree of security to which he is assigned. Except as set forth under IC 35-38-2.5.-5, a person does not earn credit time while on parole or probation.

(b) A person imprisoned upon revocation of parole is initially assigned to the same credit time class to which he was assigned at the time he was released on parole.

(c) A person who, upon revocation of parole, is imprisoned on an intermittent basis does not earn credit time for the days he spends on parole outside the institution.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.137; Acts 1979, P.L.120, SEC.15; P.L.166-2001, SEC.4.

IC 35-50-6-7

Charge of new crime or violation of rule while confined; effect on credit time; assignment to Class III

Sec. 7. (a) A person under the control of a county detention facility or the department of correction who:

- (1) has been charged with a new crime while confined; or
- (2) has allegedly violated a rule of the department or county facility;

may be immediately assigned to Class III and may have all earned credit time suspended pending disposition of the allegation.

(b) A person assigned to Class III under subsection (a) shall be denied release on parole or discharge until:

- (1) he is in the actual custody of the department or the county detention facility to which he was sentenced; and
- (2) he is granted a hearing concerning the allegations.

The department or sheriff may waive the hearing if the person is restored to his former credit time class and receives all previously earned credit time and any credit time that he would have earned if he had not been assigned to Class III.

(c) A person who is assigned to Class III under subsection (a) and later found not guilty of the alleged misconduct shall have all earned credit time restored and shall be reassigned to the same credit time class that he was in before his assignment to Class III. In addition, the person shall be credited with any credit time that he would have earned if he had not been assigned to Class III.

As added by P.L.338-1983, SEC.1.